IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTHDAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21673 of 2004

Between:

A.Sobha Rani, D/o.A.Ranga Reddy, (Divorcee of A.Eswara Reddy),
R/o.Satya Sai Colony, Enemulapalli Cross, Puttaparthy, Anantapur District.

..... PETITIONER

AND

The APSRTC, rep.by Depot Manager, Puttaparthy Bus Depot, Puttaparthy,
Anantapur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, particularly one in the nature of writ of Certiorari calling for the records relating to the impugned show cause Notice vide proceedings No.P2/118(7)/04-PTP, dated 16-11-2004 of the respondent and quash the same.

Counsel for the Petitioner:MR.M.GANGA RAO

Counsel for the Respondent : MR.P.VINAYAKA SWAMY

The Court made the following :

ORDER:

The petitioner was placed under suspension by the impugned order dated 16-11-2004, challenging the same , the present with petition is filed.

The counsel for the petitioner contended that under the threat of Police, the petitioner was admitted the guilt in Criminal Court and therefore, the same cannot be taken into consideration and solely basing on the conviction of the petitioner by the Criminal Court, the impugned proceedings have been issued.

The counsel for the respondent opposed the same on the ground that it is only a suspension pending enquiry.

The learned counsel for the petitioner contended that without conducting any enquiry a show cause of removal is given which is not in accordance with law. Therefore, quash the proceedings.

On the other hand, the learned counsel appearing for the respondent contended that it is only a show cause and that the petitioner can as well give explanation to the show cause notice. Therefore, show cause notice will not suffer from any serious infirmities so as to call for interference of this Court.

Basing on the conviction recorded by the Judicial First Class Magistrate, Penugonda in STC.No.121 of 2004 dated 28-9-2001, a show cause notice as to why the proposed penalty should not be imposed upon the petitioner and therefore, an explanation should be reached within 7 days from the date of receipt of the notice. Normally this Court will not interfere with the proceedings of the show cause notice

unless it is contrary to the provisions of the employees regularizations,1967. Solely basing on the judgment rendered in the Criminal Court, a show cause notice for removal from service is given which is a major penalty. Without conducting any departmental enquiry, a major penalty cannot be imposed. This is a settled law. Therefore, the impugned proceedings are vitiated for the reason of non conducting of an enquiry. Therefore, impugned proceedings are set-aside. However, the respondent corporation shall conduct enquiry if they want to proceed further against the petitioner and take appropriate action.

This Writ Petition is accordingly allowed. No costs.

KCB,J

26-11-2004

Stp

To

1. The Depot Manager, APSRTC,

Puttaparthy Bus Depot,

Puttaparthy, Anantapur District.

2. 2CD copies

THE HON'BLE MR JUSTICE K.C. BHANU

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16-11-2004